

28. The anchoring biscuit device of claim 27 wherein said attachment orifice has a bevelled top.

B

29. The anchoring biscuit device of claim 27 wherein said attachment orifice is non-circular and elongated.--

*a add
b 1 >*

REMARKS

Claims 1 through 17 stand objected to as set forth in paragraph six of the Office Action dated August 19, 1999. By the above amendments, all of the suggestions of the Examiner have been attended to.

Claims 1 through 17 have been rejected under 35 U.S.C. § 112, second paragraph as being indefinite for the following reasons:

a.) In claims 1 and 3, the Examiner has deemed "substantially" as being vague and indefinite. However, many thousands of patents have been issued with the word "substantially" as an adverb meaning very close to, if not exactly. There have been cases supporting the use of "substantially" and this practice has been used through the Patent Office for decades. For this reason, the Examiner is requested to withdraw his objection to "substantially";

b.) The Examiner has deemed the use of the word "horizontal" as being

indefinite as to the top element. Again, words such as "horizontal" and "vertical" are taken to have a meaning understood in patent practice and "horizontal" means of or relating to the horizon, i.e., the earth when viewed from a distance and hence "horizontal" is clearly understood to mean relative to the ground;

c.) The Examiner has deemed "biscuit-shaped" vague and indefinite. However, the Examiner is directed to page 22 at lines 8 through 14. It states essentially that the top element has a top view in the shape of a biscuit and that it thus includes walls in the shape of arcs having predetermined radius and predetermined arc lengths. In the case of Figure 1, they are perfectly symmetrical and have flat-end walls. While Applicant feels that this Specification, and the drawings, adequately define "biscuit-shaped", it is also pointed out that biscuit-shaped joinders are well known in the field of carpentry. Nonetheless, in order to more accurately define the present invention, the new claims have been further modified to add definition to the biscuit-shaped top view configuration by adding further details taken from the Specification as originally filed;

d.) The Examiner takes exception to the concept of the "imaginary center line" and yet the use of an imaginary center line to define relationships of components of a structure has been used in patent claim drafting for more than 100 years. Nonetheless, the claim has been amended to elude to a center area between opposite side walls in the shape of arcs;

e.) The Examiner's concerns in claim 3 regarding the location of the

support members relative to the orifice would be of concern if the phrase is taken out of context. However, these support members are stated to be extending downwardly from the top element containing the orifices and, therefore, orientation is not vague or indefinite; and,

f.) As to the redundancy of the location of the support members in claim 9, this has been eliminated.

In view of the above, it is respectfully requested that the rejections under 35 U.S.C. § 112 be withdrawn.

Claims 1 through 3, 8 through 10 and 14 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ellinwood.

Applicant respectfully disagrees because Ellinwood shows a continuous device with elongated parallel walls and not biscuit-shaped elements as presently claimed. Additionally, Ellinwood has no orifices, i.e. holes that pass all the way through the device. Instead, Ellinwood provides a groove for the nail head, but clearly teaches that the fastener must be "driven therethrough" and instructs that the base of the connecting member is properly positioned on the stud and the nails are then driven. (Column two, lines 62 et seq.) In fact, Ellinwood uses an offset opening to accommodate the nails and all of these openings shown in all of the Ellinwood drawings are clearly not orifices that pass through the device as in the present invention.

Ellinwood teaches the use of T-like continuous splines for joinder of abutted panels to rafters or studs. These splines usually run the full length of the studs and

even when they do not, Ellinwood states that an important feature is the dimensional relation of this connecting member to the grooves in which it is fitted (column 1, line 46 et seq.), that the connecting member (the spline) has a shape corresponding to the grooves and space of the panels (column 1, line 49 et seq.). These grooves are continuous and flat (see e.g. the Figures of Ellinwood) and that the connecting member be snugly received by the respective groove. None of this teaches or suggests the use of biscuits or biscuit-shaped connection members, but rather, has specific needs and objectives which teach away from biscuit (arcuate) shapes. It is difficult to even understand the Examiner's interpretation of this reference's teachings in a manner that would render it anticipatory of the present invention. It describes an invention which is structurally different, mates with a different female aspect and is used for a different purpose.

Thus, Ellinwood neither anticipates nor renders the present invention obvious, because of the foregoing shortcomings.

Claims 5 through 17, 11 through 13 and 15 through 17 stand rejected under 35 U.S.C. § 103(a) as obvious over Ellinwood in view of German Patent 372,483. The Examiner is correct in his assertion that the German Patent '483 shows an orifice with an elongated, bevelled top for a wood screw. However, there is no suggestion or teaching in either Ellinwood or the German Patent to combine the teachings of these two patents. In fact, Ellinwood does not use screws. The Ellinwood invention relates to panels being fitted onto long strips of channel bases which are nailed to studs with

no movement needed - in fact the Ellinwood invention requires the base to be rigid on the rafter to provide a floating relationship between the panels and the rafter itself during insulation. To provide orifices in Ellinwood would be contrary to the invention and defeat its purpose. As mentioned above, Ellinwood provides no orifices, but only partial cut outs and Ellinwood has fasteners such as nails driven through the base. Thus, it is inappropriate for the Examiner to combine the teachings of Ellinwood and the German Patent.

Second, even if the teachings of Ellinwood and the German Patent are combined for the sake of argument, the results do not overcome the foregoing shortcomings of Ellinwood because the German Patent shows none of the claimed structures. The resulting combination of Ellinwood and the German Patent would still be a straight rod with a beveled hole with potentially undesirable loose stud attachments.

For all of the above reasons, it is urged that the rejection of new claims 18 through 29 based on Ellinwood and the German Patent would be inappropriate.

In addition to the above arguments and amendments, submitted herewith is the Declaration of the inventor herein under Rule 1.132 which supports a finding of non-obviousness not only with respect to the cited references, but with respect to the references which have been made of record and not relied upon by the Examiner.

As to the Notice regarding the drawings, formal drawings are submitted herewith which are believed to satisfy the Draftsman's concerns.

For all of the above reasons, it is respectfully requested that a Notice of

Allowance with regard to new claims 18 through 29 be forthcoming.

Thank you.

Respectfully submitted,


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Enclosures

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